

File No. 130784

Committee Item No. 1

Board Item No. 11

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: 09/18/2013

Board of Supervisors Meeting

Date: September 24, 2013

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

### OTHER

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Completed by: Victor Young

Date: September 13, 2013

Completed by: Victor Young

Date: 9/19/13

[Business and Tax Regulations Code - Miscellaneous Changes]

1  
2  
3 Ordinance amending the Business and Tax Regulations Code by, among other things:  
4 1) (Common Administrative Provisions) requiring monthly installment payments rather  
5 than prepayments of hotel and parking taxes; eliminating the annual parking tax bond  
6 renewal requirement; providing a due date for business registration fees; excluding  
7 penalties from calculation of interest on tax determinations; adding an underreporting  
8 penalty for failure to file a return when tax liability exceeds \$5,000; changing the  
9 penalty for failure to register or update a registration, making misstatements in a  
10 registration, failure to allow inspection or production of records, and failure to file a  
11 return; 2) (Tax on Occupancy of Parking Space in Parking Stations) eliminating the  
12 prepayment Revenue Control Equipment certification; 3) (Business Registration  
13 provisions) requiring a copy of the business registration certificate rather than a  
14 business tax registration tag be displayed on company vehicles; eliminating the Tax  
15 Collector's authority to suspend a business registration certificate; 4) (Payroll Expense  
16 Tax Ordinance) providing that interest applies to unpaid penalties but not unpaid fees  
17 and interest; changing the date that businesses must file an affidavit with the Office of  
18 Economic and Workforce Development ~~must provide the Tax Collector a list of persons~~  
19 ~~eligible to claiming~~ the Central Market Street and Tenderloin Area Payroll Expense Tax  
20 Exclusion; and 5) (Parking Stations, Revenue Control Equipment) specifying the date  
21 the Revenue Control Equipment Compliance Fee is due.

22 NOTE: Unchanged Code text and uncodified text are in plain Arial font.  
23 Additions to Codes are in single-underline italics Times New Roman font.  
24 Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.  
25 Board amendment additions are in double-underlined Arial font.

1 **Board amendment deletions** are in ~~strikethrough~~ Arial font.

2 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
3 subsections or parts of tables.

4 Be it ordained by the People of the City and County of San Francisco:

5  
6 Section 1. Clarification regarding Proposition E (November 6, 2012) and Sections  
7 6.9-1, 6.9-3, and 905-A. Article 6, Sections 6.9-1 and 6.9-3, and Article 12-A, Section 905-A  
8 of the Business and Tax Regulations Code were amended by Proposition E, adopted by the  
9 voters at the election on November 6, 2012. Proposition E amendments are set to become  
10 operative on January 1, 2014. Because these Proposition E amendments are not yet  
11 operative, they are not included in the currently codified version of the Business and Tax  
12 Regulations Code. This ordinance, however, treats those three sections as if they are already  
13 in the Business and Tax Regulations Code as amended by Proposition E. Accordingly, the  
14 amendments in this ordinance shown in those sections as additions and deletions are  
15 amendments of the text of Proposition E as amended by the voters, not the text of those  
16 sections as they now appear in the Business and Tax Regulations Code.

17  
18 Section 2. The Business and Tax Regulations Code is hereby amended by revising  
19 Article 6, Sections 6.6-1, 6.8-1, 6.9-1, 6.9-3, 6.9-4, 6.9-5, 6.9-6, 6.11-1, 6.11-2, 6.11-3, 6.17-2,  
20 6.17-3, and 6.21-1 to read as follows:

21  
22 **SEC. 6.6-1. CERTIFICATE OF AUTHORITY FOR THIRD-PARTY TAXES.**

23 (a) These additional provisions shall apply to operators under the ~~transient hotel~~  
24 ~~occupancy~~ Tax on Transient Occupancy of Hotel Rooms (hereinafter "Hotel Tax") (Article 7), the  
25

1 Tax on Occupancy of ~~p~~Parking ~~s~~Space in ~~occupancy tax~~Parking Stations (hereinafter "Parking Tax")

2 (Article 9), the ~~u~~Utility ~~u~~Users ~~t~~Tax (Article 10) and the ~~a~~Access ~~l~~Line ~~t~~Tax (Article 10B).

3 (b) Every operator who is required to collect or remit any third-party tax must  
4 possess

5 a valid certificate of authority issued by the Tax Collector.

6 (c) The application for a certificate of authority shall be on a form provided by the  
7 Tax Collector and shall set forth the name under which the person transacts or intends to  
8 transact business, the location of each of the person's places of business in the City, and  
9 such other information as the Tax Collector may require. The application shall be signed by  
10 the owner if a sole proprietor, by a member or partner, in the case of an association, or by an  
11 executive officer or some person specifically authorized by the corporation to sign the  
12 application in the case of a corporation. No person shall operate a business for which a  
13 certificate of authority is required under subsection (b) unless and until the Tax Collector has  
14 issued that person a certificate of authority. The holder of a certificate of authority must  
15 promptly notify the Tax Collector of any changes to the information stated in the certificate of  
16 authority application.

17 (d) Except as provided in subsections (f), (g), (h), ~~and (j), (l), and (m)~~ below, the Tax  
18 Collector, within 45 days after the application is complete, shall issue a separate certificate of  
19 authority to the operator to collect third-party taxes from customers for each location at which  
20 the operator is required to collect such taxes. The certificate will expire on a date certain set  
21 by the Tax Collector. The operator must apply for renewal of the certificate, before it expires,  
22 if the operator intends to continue to engage in business in the City. Except as provided in  
23 subsections (f), (g), (h), ~~and (j), (l), and (m)~~, the Tax Collector may issue successive, one-year  
24 renewals of an operator's certificate. Each certificate shall state the location of the place of  
25 business to which it applies and shall be prominently displayed at such location in plain view

1 of all customers. Certificates of authority may not be assigned or transferred. The operator  
2 shall immediately surrender to the Tax Collector the certificate for that location upon the  
3 operator's cessation of business at that location or upon the sale or transfer of the business.

4 (e) The holder of a certificate of authority to collect parking taxes under Article 9  
5 shall  
6 remain presumptively liable for the collection of parking taxes at the location named in the  
7 certificate, and for the reporting and remittance of such taxes to the Tax Collector, unless and  
8 until the holder of the certificate both

9 (1) notifies the Tax Collector in writing that the holder has ceased to conduct  
10 a parking business at such location, and

11 (2) surrenders the certificate for that location to the Tax Collector.

12 (f) (1) The Tax Collector may refuse to issue the certificate where, within the 45-  
13 day period referred to in subsection (d) above, the Tax Collector determines that the operator,  
14 or any signatory to the application, or any person holding a 10 percent or greater legal or  
15 beneficial interest in said operator ("10% owner") is not in compliance with any provision of  
16 Articles 6, 7, 9, 10, 10B, 12, 12-A, 12-A-1, or 22, including but not limited to any failure to  
17 timely collect, report, pay, or remit any tax imposed by this Code, or where any such person is  
18 not in compliance with any provision of Sections 1215 through 1223 inclusive of Article 17 of  
19 the Police Code.

20 (2) Solely for purposes of determining under this Section whether any such  
21 operator, signatory or 10% owner is not in compliance with such Articles, the Tax Collector  
22 may disregard any corporation or association owned or controlled, directly or indirectly, by any  
23 such operator, signatory or 10% owner and consider such corporation or association's  
24 operations and liabilities as conducted by or as owned by any one or more of such corporation  
25 or association's officers, directors, partners, members or owners. For purposes of this

1 Section, (A) the term "owned" means ownership of 50 percent or more of the outstanding  
2 ownership interests in such corporation or association, and (B) the term "controlled" includes  
3 any kind of control, whether direct or indirect, whether legally enforceable, and however  
4 exercisable or exercised over such corporation or association. A presumption of control  
5 arises if the operator, signatory or 10% owner is (or was) an officer, director, partner or  
6 member of such corporation or association.

7 (g) Further, if any person subject to this Section violates any provision of Articles 6,  
8 7, 9, 10, 10B, 12, 12-A, 12-A-1, or 22, or a rule or regulation promulgated by the Tax Collector,  
9 including but not limited to any failure to timely collect, report, pay, or remit any tax imposed  
10 by this Code, failure to maintain accurate registration information, failure to sign any return or  
11 pay any tax when due, or failure to timely respond to any request for information, order for  
12 records or subpoena, or for failure to comply with the requirements of Article 22 of the  
13 Business and Tax Regulations Code or any provision of Sections 1215 through 1223 inclusive  
14 of Article 17 of the Police Code, the Tax Collector may, after serving the person with written  
15 notice of his or her determination in the manner provided in Section 6.11-2 and an opportunity  
16 to be heard pursuant to the notice and review provisions of Section 6.13-1 *et seq.*, refuse to  
17 issue that person a new certificate of authority or may revoke or suspend that person's  
18 certificate of authority. The Tax Collector may refuse to issue that person a new certificate of  
19 authority or to withdraw the suspension of an existing certificate until the person, signatory to  
20 the application for the certificate revoked or suspended, signatory to the application for a new  
21 certificate or withdrawal of the suspension, and all 10% owners have complied with the  
22 provisions of Articles 6, 7, 9, 10, 10B, 12, 12-A, 12-A-1, and 22 and corrected the original  
23 violation to the satisfaction of the Tax Collector. For any person applying for or holding a  
24 certificate of authority to collect parking taxes, the Tax Collector shall promptly notify the Chief  
25 of Police in writing that it has revoked a person's certificate of authority, refused to issue a

1 new certificate of authority, suspended an existing certificate of authority or determined that  
 2 the person is not in compliance with the Business and Tax Regulations Code. The Tax  
 3 Collector shall in writing request that the Chief of Police refuse to issue a commercial parking  
 4 permit to the person or suspend or revoke the person's existing commercial parking permit  
 5 and immediately close the business, pursuant to Sec. 1215.3(b) of the Police Code.

6 (h) (1) Before any certificate of authority shall be issued to any applicant to engage  
 7 in the business of renting parking space in a parking station in this City ~~and annually, for as long~~  
 8 ~~as the business continues, such~~the applicant shall file with the Tax Collector a bond naming the  
 9 City as exclusive beneficiary at all times the applicant engages in such business. The  
 10 applicant shall maintain the~~Such~~ bond ~~shall be~~ in the following amounts for as long as the business  
 11 continues:

| Annual gross receipts for parking station | Bond amount |
|---|-------------|
| Less than \$100,000.00                    | \$20,000    |
| \$100,000.00 to \$250,000.00              | \$50,000    |
| \$250,000.01 to \$500,000.00              | \$100,000   |
| \$500,000.01 to \$750,000.00              | \$150,000   |
| \$750,000.01 to \$1,000,000.00            | \$200,000   |
| \$1,000,000.01 to \$1,250,000.00          | \$250,000   |
| \$1,250,000.01 to \$1,500,000.00          | \$300,000   |
| \$1,500,000.01 to \$1,750,000.00          | \$350,000   |
| \$1,750,000.01 to \$2,000,000.00          | \$400,000   |
| \$2,000,000.01 to \$2,250,000.00          | \$450,000   |
| \$2,250,000.01 to \$2,500,000.00          | \$500,000   |
| \$2,500,000.01 to \$2,750,000.00          | \$550,000   |
| \$2,750,000.01 to \$3,000,000.00          | \$600,000   |

|                                  |           |
|----------------------------------|-----------|
| \$3,000,000.01 to \$3,250,000.00 | \$650,000 |
| \$3,250,000.01 to \$3,500,000.00 | \$700,000 |
| \$3,500,000.01 to \$3,750,000.00 | \$750,000 |
| \$3,750,000.01 to \$4,000,000.00 | \$800,000 |
| \$4,000,000.01 and greater       | \$800,000 |

(2) This bond requirement does not apply to an applicant that is a governmental entity.

(3) The Tax Collector may, in his or her discretion, independently establish the annual gross receipts for a parking station and set the bond amount pursuant to the schedule above, based on that determination. If, at the end of any calendar year, the gross receipts for a parking station have increased such that a larger bond amount would be required under the above schedule, the operator shall obtain a new bond in the increased amount by the following April 1. If at the end of any calendar year the gross receipts for the parking station have decreased, the operator may apply to the Tax Collector for a reduction of the bond amount.

(i) Upon application by the operator, the Tax Collector may, in his or her discretion, set the bond amount for a parking station at the following levels, provided the operator meets the following qualifications: (1) the operator has maintained a valid certificate of authority, including a bond for all locations, for the 3 years immediately preceding the date of the application; (2) the Tax Collector has not issued a deficiency determination against the operator for any business location for the 3 years immediately preceding the date of the application; and (3) the Tax Collector determines that it is in the best interest of the City. The reduced bond amount is applicable during the calendar year that it is approved. The Tax Collector may, in his or her discretion, approve renewal of the bond at the lower amount from year to year. If after approving an application for a reduced bond amount, the Tax Collector



1 issues a deficiency determination against the operator for any business location, or the  
 2 operator fails to obtain a Certificate of Authority for any business location, the approval may  
 3 be rescinded and the higher bond amount provided under subsection (h) may be required.

| Annual gross receipts for qualified parking station | Bond amount |
|---|-------------|
| Less than \$100,000.00                              | \$10,000    |
| \$100,000.00 to \$250,000.00                        | \$25,000    |
| \$250,000.01 to \$500,000.00                        | \$50,000    |
| \$500,000.01 to \$750,000.00                        | \$75,000    |
| \$750,000.01 to \$1,000,000.00                      | \$100,000   |
| \$1,000,000.01 to \$1,250,000.00                    | \$125,000   |
| \$1,250,000.01 to \$1,500,000.00                    | \$150,000   |
| \$1,500,000.01 to \$1,750,000.00                    | \$175,000   |
| \$1,750,000.01 to \$2,000,000.00                    | \$200,000   |
| \$2,000,000.01 to \$2,250,000.00                    | \$225,000   |
| \$2,250,000.01 to \$2,500,000.00                    | \$250,000   |
| \$2,500,000.01 to \$2,750,000.00                    | \$275,000   |
| \$2,750,000.01 to \$3,000,000.00                    | \$300,000   |
| \$3,000,000.01 to \$3,250,000.00                    | \$325,000   |
| \$3,250,000.01 to \$3,500,000.00                    | \$350,000   |
| \$3,500,000.01 to \$3,750,000.00                    | \$375,000   |
| \$3,750,000.01 to \$4,000,000.00                    | \$400,000   |
| \$4,000,000.01 and greater                          | \$400,000   |

24 (j) Such bond shall be executed by the applicant as principal, and by a corporation  
 25 or association which is licensed by the Insurance Commissioner of this State to transact the

1 business of fidelity and surety insurance, as surety. The applicant shall keep the bond in full  
2 force and effect for the duration of the certificate of authority and all renewals thereof issued to  
3 such applicant. If the bond provides that the term thereof shall be continuous until cancelled,  
4 the applicant shall provide the Tax Collector with certification from the surety of the renewal or  
5 continuation of the bond:

6 (1) when applying for renewal of an existing certificate of authority,

7 (2) when requesting the withdrawal of a suspension of an existing certificate  
8 of authority,

9 (3) when applying for a reduced bond amount pursuant to subsection (i), or

10 (4) upon written request of the Tax Collector.

11 (k) The bond shall contain conditions that require the applicant to comply fully with  
12 all the provisions of the Business and Tax Regulations Code concerning the collection of third-  
13 party taxes from occupants of parking stations and the remittance of such taxes to the Tax  
14 Collector. The bond shall be payable to the City in the amount of all unpaid parking taxes on  
15 amounts of taxable rents collected by the applicant, together with all administrative collection  
16 costs, interest, penalties, and other costs and charges applicable thereto; provided, however,  
17 that the aggregate liability of the surety for any and all claims which may arise under such  
18 bond shall in no event exceed the face amount of such bond regardless of the amount due  
19 and owing to the City. The City may bring an action upon the bond for the recovery of any  
20 unpaid parking taxes, administrative collection costs, interest, penalties and other costs and  
21 charges at any time prior to the expiration of the period of limitations applicable to the  
22 collection of such unpaid taxes by the Tax Collector.

23 (l) When there is a deficiency determination or jeopardy determination against an  
24 operator for third-party taxes, the Tax Collector shall issue the deficiency determination or  
25 jeopardy determination against the operator and the operator's surety. The liability of the

1 surety shall not exceed the face value of the bond(s) in effect during the period for which the  
2 deficiency is assessed. The Tax Collector shall provide notice of such deficiency  
3 determination or jeopardy determination to the operator and the bond surety. Either an  
4 operator or a surety or both may file a petition for redetermination. An operator's petition for  
5 redetermination shall be construed by the Tax Collector as a petition on behalf of both the  
6 operator and the surety. The surety may request a hearing before the Tax Collector pursuant  
7 to Section 6.13-2. The taxpayer and surety hearings may be consolidated at the discretion of  
8 the Tax Collector. Upon the finality of such determination or decision on petition for  
9 redetermination, the operator and the surety shall be liable to the Tax Collector in the amount  
10 of the determination or decision on petition for redetermination. The surety's liability shall not  
11 exceed the face value of the bond(s) in effect during the period for which the deficiency is  
12 assessed. The surety shall be subject to the same requirements as the operator with regard  
13 to payment of the tax liability and exhaustion of administrative remedies prior to seeking  
14 judicial relief. The Tax Collector may exercise all remedies against the surety that are  
15 available to the Tax Collector as to an operator or any other person determined to be liable for  
16 a tax.

17 (m) Before any certificate of authority shall be issued to any applicant to engage in  
18 the business of renting parking space in a parking station in this City, the applicant shall  
19 comply with Article 22. The applicant shall reimburse the Tax Collector's costs to inspect the  
20 parking station to confirm it complies with Article 22.

21  
22 **SEC. 6.8-1. CITY, PUBLIC ENTITY AND CONSTITUTIONAL EXEMPTIONS.**

23 (a) Nothing in Articles 6, 7, 9, 10, 10B, 11, 12, ~~or 12-A~~, or 12-A-1 shall be construed  
24 as imposing a tax upon:

- 25 (1) The City;

1 (2) The State of California, or any county, municipal corporation, district or  
2 other political subdivision of the State, except where any constitutional or statutory immunity  
3 from taxation is waived or is not applicable;

4 (3) The United States of America, or any of its agencies or subdivisions,  
5 except where any constitutional or statutory immunity from taxation is waived or is not  
6 applicable; or

7 (4) Any person exempted from the particular tax by the Constitution or  
8 statutes of the United States or the Constitution or statutes of the State of California.

9 (b) The foregoing exemption from taxation does not relieve an exempt party from its  
10 duty to collect, report, and remit third-party taxes.

11  
12 **SEC. 6.9-1. DETERMINATIONS, RETURNS AND PAYMENTS; DUE DATE OF**  
13 **TAXES.**

14 Except for jeopardy determinations under Section 6.12-2, and subject to  
15 ~~prepayments~~remittances required under Section 6.9-2, all amounts of taxes and fees imposed  
16 by Articles 6, 7, 9, 10, 10B, 11, 12, 12-A, and 12-A-1 are due and payable, and shall be  
17 delinquent if not paid to the Tax Collector on or before the following dates:

18 (a) For the ~~transient~~HHotel ~~occupancy~~TTax (Article 7) and the ~~p~~Parking ~~space~~  
19 ~~occupancy~~TTax (Article 9), for each ~~calendar quarter, on or before the last day of the month~~  
20 ~~following each respective quarterly period~~month, on or before the last day of the following month;

21 (b) For the payroll expense tax (Article 12-A) and the gross receipts tax  
22 (Article 12-A-1), on or before the last day of February of each year;

23 (c) For the utility users ~~taxes~~ (Article 10) and the access line tax (Article 10B), for  
24 each monthly period, on or before the last day of the following month;~~and~~

1 (d) For the stadium operator admission tax (Article 11), within 5 days after the  
2 event, subject to the provisions of Section 804 of Article 11; and

3 (e) For the business registration certificate (Article 12), on or before the last day of May  
4 preceding the registration year commencing July 1 of that year.

5  
6 **SEC. 6.9-3. DETERMINATIONS, RETURNS AND PAYMENTS; ~~PREPAYMENTS.~~**

7 (a) ~~Prepayments and~~ Remittances. Notwithstanding the due dates otherwise provided  
8 in Section 6.9-1, taxpayers shall make ~~prepayments and~~ remittances of taxes and third-party  
9 taxes to the Tax Collector as follows:

10 (1) Hotel and Parking Taxes. The Hotel Tax (Article 7) and the Parking  
11 Tax (Article 9) returns shall be filed monthly and taxes shall be remitted monthly. Such monthly  
12 remittances shall be due and payable to the Tax Collector on or before the last day of the  
13 month immediately following the month for which such remittance is due. ~~Taxes paid in the first~~  
14 ~~2 monthly remittances of any quarterly period shall be a credit against the total liability for such third-~~  
15 ~~party taxes for the quarterly period. The third monthly remittance of any quarterly period shall be in~~  
16 ~~an amount equal to the total tax liability for the quarterly period, less the amount of any monthly~~  
17 ~~remittance for such quarter actually paid.~~

18 (2) Payroll Expense Tax and Gross Receipts Tax. The payroll expense tax  
19 (Article 12-A) and the gross receipts tax (Article 12-A-1) shall be paid in quarterly installments  
20 as follows:

21 (A) Due Dates. Every person liable for payment of payroll expense tax  
22 or gross receipts tax for any tax year shall pay such tax for the subject tax year in 4 quarterly  
23 installments. The first, second and third quarterly installments shall be due and payable, and  
24 shall be delinquent if not paid on or before, April 30, July 31, and October 31st, respectively,  
25

1 of the subject tax year. The fourth installment shall be reported and paid on or before the last  
2 day of February following the subject tax year.

3 (B) Payments.

4 (i) Installment Payments. The first, second, and third quarterly  
5 installments shall be a credit against the person's total payroll expense tax or gross receipts  
6 tax, as applicable, for the subject tax year in which such first, second, and third quarterly  
7 installments are due. The fourth quarterly installment shall be in an amount equal to the  
8 person's total payroll expense tax or gross receipts tax liability for the subject tax year, as  
9 applicable, less the amount of the payroll expense tax or gross receipts tax first, second, and  
10 third quarterly installments and other tax payments, if any, actually paid.

11 (ii) Payroll Expense Tax Installments. A person's first, second,  
12 and third quarterly installment payments of payroll expense tax for any tax year shall be  
13 computed by using:

- 14 1. The person's taxable payroll expense (as defined  
15 under Article 12-A) for each quarter; and
- 16 2. The rate of tax applicable to the tax year in which the  
17 first, second, and third quarterly installments are due.
- 18 3. Notwithstanding the foregoing, and except for  
19 taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December  
20 31, 2013, the first, second, and third quarterly installments shall be computed using the rates  
21 set forth in the following table:

| Tax Year | 1st, 2nd and 3rd Installments |
|----------|-------------------------------|
| 2014     | 1.350%                        |
| 2015     | 1.125%                        |

|   |      |        |
|---|------|--------|
| 1 | 2016 | 0.750% |
| 2 | 2017 | 0.375% |
| 3 | 2018 | 0.000% |

4 The fourth quarterly installment shall be in an amount equal to the person's total payroll  
5 expense tax liability for the subject tax year, less the amount of the first, second, and third  
6 quarterly installments and other tax payments, if any, actually paid. A person's total payroll  
7 expense tax liability shall be computed using the rate for the subject tax year computed,  
8 certified, and published by the Controller under Section 903.1 of Article 12-A or as otherwise  
9 provided in this Article.

10 (iii) Gross Receipts Tax Installments. A person's first, second,  
11 and third

12 quarterly installments of gross receipts tax for any tax year shall be computed by using:

- 13 1. The person's taxable gross receipts (as defined
- 14 under Article 12-A-1) for each quarter; and
- 15 2. The rate of tax applicable to the tax year in which the
- 16 first,
- 17 second, and third quarterly installments are due.

18 3. Notwithstanding the foregoing, and except for  
19 taxpayers under Section 953.8 of Article 12-A-1, for tax years commencing after December  
20 31, 2013, the first, second, and third quarterly installments shall be computed using the rates  
21 applicable to the person's taxable gross receipts under Sections 953.1 through 953.7 of  
22 Article 12-A-1, multiplied by the percentages set forth in the following table:

| 23 Tax Year | 1st, 2nd and 3rd Installments |
|-------------|-------------------------------|
| 24 2014     | 10%                           |
| 25 2015     | 25%                           |

|   |      |      |
|---|------|------|
| 1 | 2016 | 50%  |
| 2 | 2017 | 75%  |
| 3 | 2018 | 100% |

4 The fourth quarterly installment shall be in an amount equal to the person's total gross  
5 receipts tax liability for the subject tax year, less the amount of the first, second, and third  
6 quarterly installments and other tax payments, if any, actually paid. A person's total gross  
7 receipts tax liability shall be computed using the rate for the subject tax year computed,  
8 certified, and published by the Controller under Section 959 of Article 12-A-1, or as otherwise  
9 provided in that Article.

10 (b) Tax ~~Prepayment~~ Installment Penalties. Every person who fails to pay any tax  
11 ~~prepayment~~ installment required under this Section before the relevant delinquency date shall  
12 pay a penalty in the amount of 5 percent of the amount of the delinquent tax  
13 ~~prepayment~~ installment per month, or fraction thereof, up to 20 percent in the aggregate, and  
14 shall also pay interest on the amount of the delinquent tax ~~prepayment~~ installment and penalties  
15 from the date of delinquency at the rate of 1 percent per month, or fraction thereof, for each  
16 month the ~~prepayment~~ installment is delinquent, until paid.

17 (c) Hotel and Parking Taxes. An operator subject to the Hotel Tax (Article 7) or the  
18 Parking Tax (Article 9) shall make monthly remittances in the amount of the actual tax owed.

19 (d) Forms and Adjustments. Tax ~~prepayments~~ remittances required under this Section  
20 shall be accompanied by a tax ~~prepayment~~ remittance form prepared by the Tax Collector, but  
21 failure of the Tax Collector to furnish the taxpayer with a tax ~~prepayment~~ remittance form shall  
22 not relieve the taxpayer from any tax ~~prepayment~~ payment obligation. ~~The Tax Collector may, in~~  
23 ~~writing, adjust the amount of a tax prepayment if the taxpayer can establish in writing by clear and~~  
24 ~~convincing evidence that the first installment of semi-annual tax prepayments, or first, second or third~~  
25



1 ~~monthly installment of a quarterly tax prepayment, will amount to more than one half or one quarter,~~  
2 ~~respectively, of the person's total tax liability for the tax year in which the installment is due.~~

3  
4 **SEC. 6.9-4. DETERMINATIONS, RETURNS AND PAYMENTS; EXTENSION OF**  
5 **TIME FOR FILING A RETURN AND PAYING TAX.**

6 (a) For good cause, the Tax Collector, in his or her discretion, may extend, for a  
7 period not to exceed 60 days, the time for filing any return pursuant to this Article or  
8 regulations prescribed by the Tax Collector. For ~~prepayments of taxes or for taxes~~ required to  
9 be deposited monthly, the Tax Collector may only extend the time for filing a return for a  
10 period not to exceed 30 days. As a condition of such extension, the person seeking the  
11 extension shall make a payment of not less than 90 percent of such person's estimated  
12 liability for such period. For purposes of determining the amount of the conditional payment,  
13 the Tax Collector may independently establish the taxpayer's estimated tax liability.

14 (b) Failure to make the required ~~estimated prepayment~~ installment payment will result in  
15 the taxpayer being subject to penalties and interest under Section 6.17-1.

16 (c) Notwithstanding subsection (a) of this Section, the Tax Collector may extend  
17 any time for filing any return or payment of tax or excuse penalties for any late filing or late  
18 payment by a period not to exceed 60 days if billing or other administrative duties of the Tax  
19 Collector cannot be performed in a timely manner.

20  
21 **SEC. 6.9-5. DETERMINATIONS, RETURNS AND PAYMENTS; CREDITS AND**  
22 **EXEMPTIONS.**

23 The credits and exemptions set forth in Articles 6, 7, 9, 10, 10B, 11, 12, 12-A, 12-A-1,  
24 and 12-C are provided on the assumption that the City has the power to offer such credits and  
25 exemptions. If a credit or exemption is invalidated by a court of competent jurisdiction, the

1 taxpayer must pay any additional amount that the taxpayer would have owed but for such  
2 invalid credit or exemption. Amounts owed as a result of the invalidation of a credit or  
3 exemption that are paid within 3 years after the decision of the court becomes final shall not  
4 be subject to interest or penalties.

5  
6 **SEC. 6.9-6. FILING AND PAYING BY MAIL.**

7 (a) **Filing by Mail.** Except as otherwise provided in this Section, taxpayers may file  
8 any return or other document with or make any payment to, ~~including a prepayment to,~~ the Tax  
9 Collector by United States mail.

10 \* \* \* \*

11  
12 **SEC. 6.11-1. DEFICIENCY DETERMINATIONS; RECOMPUTATION; INTEREST.**

13 (a) If the Tax Collector determines that a taxpayer has failed to pay or has  
14 underpaid a  
15 tax, that an operator has failed to collect and remit all of a third-party tax, or that a person  
16 other than the taxpayer is jointly and severally liable for any unpaid or underpaid tax, including  
17 third-party taxes, the Tax Collector may compute and determine any tax deficiency upon the  
18 basis of the return or returns or upon the basis of any other information within the Tax  
19 Collector's possession or that may come into the Tax Collector's possession. One or more  
20 deficiency determinations ~~may be made~~ of the amount due may be made for one or for more than  
21 one period.

22 (b) The amount of the determination, ~~inclusive~~ exclusive of penalties, shall bear  
23 interest at the rate of 1 percent per month, or fraction thereof, from the 15th day after the  
24 close of the month or the ~~quarterly~~ monthly period for third-party taxes, or from the last day of  
25 February following the close of the annual period, for which the amount or any portion thereof

1 should have been ~~returned~~remitted until the date of payment in full, or, in the case of stadium  
2 operator admission taxes, from the due dates of said tax as set forth in Article 11, Section  
3 804.

4 (c) In making a determination, the Tax Collector may offset overpayments for a  
5 period or periods together with interest on the overpayments, against underpayments for  
6 another period or periods, against penalties, and against the interest on the underpayments.  
7 The interest on underpayments and overpayments shall be computed in the manner set forth  
8 in Section 6.17-1 for underpayments and in Section 6.15-2 for overpayments.

9  
10 **SEC. 6.11-2. DEFICIENCY DETERMINATIONS; REVOCATION ~~AND SUSPENSION~~**  
11 **DETERMINATIONS; NOTICE AND SERVICE.**

12 (a) Upon making a determination pursuant to Section 6.11-1, or upon making a  
13 determination pursuant to Section 6.6-1 that a certificate shall not be issued or to ~~suspend or~~  
14 revoke a registration, the Tax Collector shall give to the taxpayer or other person affected  
15 written notice of the Tax Collector's determination. Except in the case of fraud, intent to  
16 evade the Business and Tax Regulations Code or rules and regulations issued or  
17 promulgated by the Tax Collector, or failure to file a return, in which case there is no statute of  
18 limitations, every notice of a deficiency determination shall be served within 3 years after the  
19 date that a return was due for a tax for the reporting period or 3 years after the return was  
20 actually filed for that reporting period, whichever is later. ~~This limitations period shall apply only~~  
21 ~~to tax periods commencing after December 31, 2007. The notice requirements specified in Board of~~  
22 ~~Supervisors Ordinance No. 26-04 shall continue to apply to obligations arising in prior tax periods.~~  
23 The Taxpayer may agree in writing to extend the period for service of a notice of a deficiency  
24 determination otherwise provided in this paragraph.

1 (b) The notice of any determination under this Section may be served upon the  
2 taxpayer or other affected person personally or by mail; if by mail, service shall be

3 (1) to the last known address that appears or is shown in the Tax Collector's  
4 records, provided there is such an address in the Tax Collector's record, or

5 (2) to an address that the Tax Collector concludes in his discretion is the last  
6 known address of the person(s).

7 (c) In case of service by mail of any notice required by this Article to be served upon  
8 the taxpayer or other person, the service is complete at the time of deposit with the United  
9 States Postal Service.

10  
11 **SEC. 6.11-3. DETERMINATION IF NO RETURN MADE; ESTIMATE OF LIABILITY,**  
12 **PENALTIES AND INTEREST.**

13 (a) If any taxpayer or person responsible for paying a tax or remitting a third-party  
14 tax fails to make a timely return or ~~estimated tax prepayment~~ remittance, the Tax Collector may  
15 make a determination based upon an estimate of the amount of the total tax liability of the  
16 taxpayer. The estimate shall be made for the period or periods in respect to which the person  
17 failed to timely make a return, ~~failed to timely make a prepayment~~ or failed to timely remit a tax,  
18 and may be based upon any information which is in the Tax Collector's possession or may  
19 come into his or her possession. Upon the basis of this estimate, the Tax Collector shall  
20 compute and determine the amount required to be paid to the City, adding to the sum thus  
21 computed a penalty equal to 20 percent thereof. One or more determinations may be made  
22 for one or more than one period. Any such determination shall be prima facie evidence of the  
23 person's liability in any subsequent administrative or judicial proceeding.

24 (b) In making a determination, the Tax Collector may offset overpayments for a  
25 period or periods, together with interest on the overpayments, against underpayments for

1 another period or periods, against penalties, and against the interest on the underpayments.  
2 The interest on underpayments and overpayments shall be computed in the manner set forth  
3 in Sections 6.17-1 and 6.15-2, respectively. The amount of the determinations, including  
4 exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction  
5 thereof, from the date of delinquency until the date of payment.

6 (c) The Tax Collector shall serve the person or persons determined to be liable for  
7 the tax as determined under Section 6.11-3 with written notice of the determination and  
8 penalty. The Tax Collector shall serve the notice upon such person(s) personally or by mail.  
9 Service by mail shall be

10 (1) to the last known address as indicated in the Tax Collector's records,  
11 provided there is such an address in the Tax Collector's record, or

12 (2) to an address that the Tax Collector concludes in his discretion is the last  
13 known address of the person(s).

14  
15 **SEC. 6.17-2. PENALTIES FOR UNDERREPORTING OF TAX.**

16 (a) **Penalties for Negligence.** If the Tax Collector determines that all or part of any  
17 tax required to be reported on any return was underreported and that such underreporting  
18 was attributable to negligence, the Tax Collector may impose a penalty in the amount of  
19 5 percent of the amount of the underreported tax, in addition to the tax or amount of tax, if the  
20 negligence is for not more than 1 month, with an additional 5 percent for each month or  
21 fraction of a month during which such negligence continues, up to 20 percent in the  
22 aggregate.

23 (b) **Penalties for Intentional Disregard of Rules, Fraud, or Intent to Evade Tax.**  
24 When it is determined by the Tax Collector that all or part of any tax required to be reported  
25 on any return was underreported and such underreporting was attributable to fraud or an

1 intent to evade the Business and Tax Regulations Code, the Tax Collector may impose a  
2 penalty in the amount of 50 percent of the amount of the underreported tax. The taxpayer or  
3 other person determined to be liable for penalties pursuant to this Section is entitled to a  
4 notice of deficiency determination or jeopardy determination and to the appeal rights as to  
5 such determinations.

6 (c) **Additional Penalty for Substantial Underreporting.**

7 (1) For purposes of this section, "substantial underreporting of tax" means  
8 the tax finally determined by the Tax Collector under Articles 7, 9, 10, 10B, 11, ~~or 12-A~~, or 12-  
9 A-1 of this Business and Tax Regulations Code exceeds the amount of tax reported on a  
10 taxpayer's original or amended return for a taxable period by 25 percent or more, or if no return  
11 is filed, the tax liability determined by the Tax Collector pursuant to Section 6.11-1 exceeds \$5000.

12 (2) If the Tax Collector determines that a taxpayer has made a substantial  
13 underreporting of tax for any taxable period, the Tax Collector may impose an additional  
14 penalty in an amount equal to 50 percent of the tax attributable to the substantially  
15 underreported amount. The penalty for substantial underreporting is in addition to any other  
16 penalty imposed under this Article 6.

17 (3) The additional penalty for substantial underreporting applies to all taxable  
18 periods ending on or after June 19, 2010.

19  
20 **SEC. 6.17-3. NEGLIGENCE PENALTIES FOR FAILURE TO REGISTER,**  
21 **MISSTATEMENTS IN REGISTRATION, FAILURE TO TIMELY UPDATE REGISTRATION,**  
22 **FAILURE TO ALLOW INSPECTION OF RECORDS UPON REQUEST, AND FAILURE TO**  
23 **FILE A RETURN; SANCTION FOR FAILURE TO PRODUCE REQUESTED RECORDS.**

24 (a) Any person who fails to register, fails to amend a registration within 7 days of a  
25 material change or who makes a material misrepresentation in a registration or who fails to

1 comply with a rule or regulation promulgated by the Tax Collector in a timely manner shall  
2 pay, in addition to any other liability that may be imposed under the provisions of this Article, a  
3 penalty in an amount equal to ~~the penalized taxpayer's annual fee for obtaining a registration~~  
4 ~~certificate as set forth in Article 12~~ either \$100 or the penalty assessed pursuant to Section 6.17-1,  
5 whichever is greater.

6 (b) The Tax Collector may impose a penalty upon any person who fails to file a  
7 return or returns required under this Article on or before the date prescribed for filing up to ~~the~~  
8 ~~amount of~~ \$500 for each such failure. The penalty under this provision shall be in addition to  
9 any other liability that may be imposed under the provisions of this Article. Filing a return that  
10 the Tax Collector determines to be incomplete in any material aspect may be deemed failure  
11 to file a return in violation of this Section.

12 (c) Any person who fails to allow a full inspection of records pursuant to a request  
13 made by the Tax Collector within the time prescribed by the Tax Collector shall pay, in  
14 addition to any other liability that may be imposed under the provisions of this Article, a  
15 penalty in the amount of \$500 for each such failure.

16 (d) Unless the failure to allow inspection was due to reasonable cause and not  
17 willful neglect, any person who fails to provide records pursuant to a written request made by  
18 the Tax Collector may not contest the Tax Collector's decision regarding the amount of such  
19 person's liability for any taxes, administrative collection costs, interest, penalties or other costs  
20 and charges imposed under the Business and Tax Regulations Code, or oppose the collection  
21 of such amount, in any subsequent administrative or judicial proceeding, on the basis of any  
22 record the Tax Collector previously requested in writing that such person failed to make  
23 available to the Tax Collector on or before the earliest to occur of the following:

24 (1) The conclusion of the hearing on a petition for redetermination held  
25 pursuant to Sections 6.12-5 or 6.13-2;

1 (2) The date the jeopardy determination became final under Section 6.12-5 if  
2 such person did not request hearing thereon;

3 (3) The date the deficiency determination became final under Section 6.13-4  
4 if such person did not request a hearing thereon.

5  
6 **SEC. 6.21-1. TRANSFEREE AND SUCCESSOR LIABILITY.**

7 (a) No person shall purchase or acquire an interest in a business subject to any tax  
8 imposed under the Business and Tax Regulations Code without first obtaining either a receipt  
9 from the Tax Collector showing that all of the seller's taxes on the business have been paid,  
10 or a certificate stating that no amount is due. For purposes of this Section, "purchase" shall  
11 include any other voluntary transfer for consideration of a business, except for purchase of  
12 stock of a publicly-traded company.

13 (b) The Tax Collector shall issue such a receipt or certificate, or a notice of the  
14 amount that must be paid as a condition of issuing the certificate, to the buyer within 30 days  
15 after receiving a written request. However, failure of the Tax Collector to timely mail the  
16 notice will not release the buyer from his or her obligations under this Section, except to the  
17 extent of penalties and interest in the event that the Tax Collector enforces the buyer's  
18 obligation in a civil action authorized pursuant to the Business and Tax Regulations Code.

19 (c) If the buyer purchases or acquires an interest in a business owing any taxes,  
20 interest or penalties imposed under Articles 7, 9, ~~or 12-A~~, or 12-A-1, the buyer shall withhold  
21 from the purchase price and pay to the Tax Collector a sufficient amount to satisfy said taxes,  
22 interest and penalties.

23 (d) If the buyer purchases or acquires an interest in a business in violation of this  
24 Section, the buyer shall become personally liable for the amount of taxes, interest and  
25 penalties owed on the business.



1 (e) The buyer's obligations shall accrue at the time the business is purchased or the  
2 interest acquired, or at the time the Tax Collector determines the seller's final liability,  
3 whichever is later.

4 (f) The liability at law or in equity of a successor, transferee or alter ego of any  
5 taxpayer or other person determined to be liable for any tax, interest, cost or penalty subject  
6 to this Article, imposed upon a taxpayer may be determined, collected and paid in the same  
7 manner and subject to the same provisions and limitations as a deficiency determination  
8 pursuant to Sections 6.11-1, 6.11-2, and 6.13-1 *et seq.* Nothing in this subsection shall be  
9 construed to limit the rights or procedures available to the Tax Collector to collect from any  
10 successor, transferee or alter ego, at law or in equity, as may be provided by law.

11  
12 Section 3. The Business and Tax Regulations Code is hereby amended by revising  
13 Article 9, Section 607 to read as follows:

14  
15 **SEC. 607. OPERATOR CERTIFICATION OF REVENUE CONTROL EQUIPMENT,**  
16 **RCE RECORD REVIEW, AND UNACCOUNTED TICKET RATIO.**

17 (a) **Definitions.** The terms used in this Section shall have the meaning given to  
18 them in Section 2201 of this Code.

19 (b) **Operator's RCE Certification.** Concurrent with remittance of Parking Taxes to  
20 the City pursuant to Business and Tax Regulations Code Section 6.7-1, an Operator shall  
21 certify in writing under penalty of perjury that it has utilized RCE that complies with the  
22 applicable provisions of Article 22 of this Code during the period for which the Operator remits  
23 the Parking Taxes. If the Operator remits Parking Taxes to the City on a monthly basis, then  
24 the Operator shall certify that during the immediately preceding month it utilized RCE that  
25 complies with all applicable provisions of this Article. ~~If the Operator prepays estimated Parking~~

1 ~~Taxes, then the Operator shall certify with its prepayment that it has utilized RCE that complies with all~~  
2 ~~applicable provisions of this Article during the preceding prepayment period.~~

3 (c) **Operator's RCE Records Review Certification.** Concurrent with remittance of  
4 Parking Taxes to the City pursuant to Business and Tax Regulations Code Section 6.7-1, an  
5 Operator shall also certify in writing under penalty of perjury that it has reviewed the RCE  
6 Records, as defined at Section 2201(b) of this Code, as to amounts of gross revenue, Rent  
7 received, Parking Tax collected and remitted, discounts provided, and Unaccounted Ticket  
8 Ratio for each Parking Station that it operated in the period reported. The Operator shall  
9 further certify that it has reconciled those RCE Records with its books and records of accounts  
10 of Rent received and Parking Tickets used, such that the Operator's certifications made under  
11 this Article are informed and correct.

12 (d) **Operator's Unaccounted Ticket Ratio Certification.** Concurrent with  
13 remittance of Parking Taxes to the City pursuant to Business and Tax Regulations Code  
14 Section 6.7-1, on a form provided by the Tax Collector, an Operator shall state the  
15 Unaccounted Ticket Ratio for the reporting period, and shall certify in writing under penalty of  
16 perjury that the stated ratio is accurate. The Unaccounted Ticket Ratio shall be calculated as  
17 follows. The number of Unaccounted Tickets for a reporting period is calculated separately  
18 for each Parking Station operated by the Operator as the sum of Inventory at the start of the  
19 reporting period and the Issued Tickets for that period, less the Voided Tickets for that period,  
20 less the Collected Tickets for that period. The Unaccounted Ticket Ratio is calculated as the  
21 number of Unaccounted Tickets for a particular Parking Station for that period divided by the  
22 number of Issued Tickets for that period, with the resulting quotient multiplied by 100 and  
23 expressed as a percentage of Issued Tickets.

1 Section 4. The Business and Tax Regulations Code is hereby amended by revising  
2 Article 12, Sections 859 and 860 to read as follows:

3  
4 **SEC. 859. BUSINESS ~~TAX~~ REGISTRATION TAG CERTIFICATE REQUIRED ON**  
5 **CERTAIN VEHICLES.**

6 (a) The Tax Collector shall require persons engaged in the businesses listed in  
7 subsection (b) to display prominently upon each vehicle which is registered as a commercial  
8 vehicle with the California Department of Motor Vehicles, and which is used by the person in  
9 the conduct of his or her business, a ~~registration tag~~ copy of the person's business registration  
10 certificate in such form and color and containing such information as the Tax Collector shall  
11 determine. An employee's personally owned vehicles are exempt from this requirement. ~~The~~  
12 ~~Tax Collector shall charge an annual fee of \$30 for each tag issued to cover the cost of issuing the tag.~~  
13 ~~The registration tag shall be valid for the year of issuance, or 1 year, whichever ends later.~~

14 ~~It is unlawful for any person, required to display a registration tag pursuant to this Section, to~~  
15 ~~use or cause to be used any company vehicle which is registered as a commercial vehicle with the~~  
16 ~~California Department of Motor Vehicles in the conduct of the person's business within the City and~~  
17 ~~County that does not have a business tax registration tag attached thereto or to remove or deface or~~  
18 ~~cover up the registration tag, or to place such registration tag upon any vehicle other than a vehicle~~  
19 ~~used by the person in his or her business, or to use or cause to be used any such vehicle more than 30~~  
20 ~~days after the expiration of the period for which the registration tag was issued. An employee's~~  
21 ~~personally owned vehicles are exempt from this requirement.~~

22 ~~Each person required to display a registration tag on vehicles used in conduct of his or her~~  
23 ~~business shall keep the registration tag(s) issued by the Tax Collector firmly affixed upon each vehicle~~  
24 ~~for which a registration tag was issued at such location upon the vehicle as is designated by the Tax~~  
25 ~~Collector.~~

1           ~~Subsequent to the issuance of any business tax registration certificate and prior to the~~  
2 ~~expiration date, any person seeking to use any company vehicle which is registered as a commercial~~  
3 ~~vehicle with the California Department of Motor Vehicles in his or her business, for which a tag has~~  
4 ~~not been issued, shall procure a tag for such vehicle from the Tax Collector. Upon the payment of a fee~~  
5 ~~for such tag, the Tax Collector shall deliver the tag to the person, which tag shall be securely affixed to~~  
6 ~~the vehicle upon the location designated by the Tax Collector.~~

7           (b) Persons engaged in the following business(es) shall be required to display a  
8 ~~registration tag~~ copy of the person's business registration certificate on company vehicles which are  
9 registered as commercial vehicles with the California Department of Motor Vehicles and which  
10 are used in the conduct of his or her business:

11           Roofing contractor and any other contractor performing work for which a reroofing  
12 permit is required.

13  
14           **SEC. 860. REGISTRATION CERTIFICATE – ~~SUSPENSION AND~~ REVOCATION.**

15           If a person fails to comply with any provision of this Article or any rule or regulation  
16 adopted pursuant thereto, the Tax Collector, after giving such person 15 days notice in writing  
17 specifying the time and place of the hearing and requiring such person to show cause why his  
18 or her registration certificate or registration certificates should not be revoked, may revoke ~~or~~  
19 ~~suspend~~ any one or more of the registration certificates held by such person. The notice shall  
20 be served in the same manner prescribed for the service of a notice of a deficiency  
21 determination under Article 6. The Tax Collector shall not issue a new registration certificate  
22 after the revocation of a registration certificate unless the registrant complies with the  
23 provisions of the Business and Tax Regulations Code and the rules and regulations adopted  
24 thereunder.  
25

1 Section 5. The Business and Tax Regulations Code is hereby amended by revising  
2 Article 12-A, Sections 905-A and 906.3 to read as follows:

3  
4 **SEC. 905-A. SMALL BUSINESS TAX EXEMPTION.**

5 (a) Notwithstanding any other provisions of this Article, a "small business  
6 enterprise" as hereinafter defined, shall be exempt from payment of the payroll expense tax;  
7 provided, however, that a small business enterprise shall pay the annual registration fee  
8 pursuant to Section 855 of Article 12.

9 (b) The term "small business enterprise" shall mean and include any taxpayer:

10 (1) Whose tax liability under this Article, but for this exemption provision,  
11 would not exceed \$2,500 or, effective January 1, 2009 whose taxable payroll expense does  
12 not exceed \$250,000; and

13 (2) Who has filed a tax return by the last date of February for the preceding  
14 tax year. If the taxpayer fails to file a return by that date, the taxpayer shall be subject to a  
15 penalty as specified in subsection (d).

16 (c) For the 2011 tax year, and each second succeeding tax year the Tax Collector  
17 shall increase the ceiling for the small business tax exemption (rounded to the nearest  
18 \$10,000 increment) to reflect increases in the United States Department of Labor's Bureau of  
19 Labor Statistics consumer price index for all urban customers for the San Francisco-Oakland-  
20 San Jose area for each of the preceding two tax years.

21 (d) In lieu of the penalty specified in Section 6.17-3 of Article 6 for failing to file a  
22 return, any person who otherwise qualifies for the small business tax exemption set forth in  
23 this Section who fails to file a return by the last date of February shall pay a penalty as  
24 follows:  
25

1 (1) If the person's payroll expense tax liability under this Article, but for the  
2 small business tax exemption under this Section, would be \$2,250 or more, the penalty shall  
3 be 5 percent of the amount of such liability, for each month, or fraction thereof, that the  
4 ~~return~~amount due is delinquent, plus an additional 5 percent each month, or fraction thereof,  
5 that the ~~return~~amount due is delinquent, up to a maximum of 20 percent of the tax liability. Any  
6 penalties remaining unpaid for a period of 90 days or more shall be subject to an additional  
7 penalty of 20 percent of the amount of the tax liability excluding penalties and interest.

8 (2) Penalties are due and payable when assessed. Unpaid penalties, ~~interest~~  
9 ~~and fees~~ shall accrue interest at the rate of 1 percent per month, or fraction thereof, from the  
10 date that they are assessed through the date of payment. The total amount of the penalties,  
11 interest and fees shall not exceed the amount of the person's payroll expense tax liability for the  
12 period but for the small business tax exemption.

13 (e) The Tax Collector may, in his or her discretion, reduce the penalty set forth in  
14 subsection (d) to not less than \$100 upon a showing that the late filing of the return was due  
15 to reasonable cause and not due to willful neglect.

16  
17 **SEC. 906.3. CENTRAL MARKET STREET AND TENDERLOIN AREA PAYROLL**  
18 **EXPENSE TAX EXCLUSION.**

19 \* \* \* \*

20 (c) In order to be eligible for the payroll expense tax exclusion authorized under this  
21 Section, persons wishing to claim the exclusion must:

22 (1) Complete and submit an initial application to the Office of Economic and  
23 Workforce Development for review and evaluation. The Office of Economic and Workforce  
24 Development will use this application to verify that applicants claiming the payroll expense tax  
25 exclusion under this Section meet the eligibility requirements outlined in this subsection (bc) of

1 ~~this Section~~. The Office of Economic and Workforce Development and the Office of the  
2 Treasurer and Tax Collector shall prescribe the form of the application and, consistent with  
3 this ordinance, the rules and regulations regarding eligibility for the Central Market Street and  
4 Tenderloin Area payroll expense tax exclusion, which shall include participation in the City's  
5 First Source Hiring Program as defined in Section 83.4 of the Administrative Code.

6 (2) File an annual affidavit with the Office of Economic and Workforce  
7 Development affirming that they continue to meet the eligibility criteria as determined by the  
8 Office of Economic and Workforce Development. The annual affidavit should detail the total  
9 number of individuals hired during the year, the number of individuals who were referred by  
10 the San Francisco Workforce Development System during the year, and the duration of  
11 employment for each individual hired during the year. The affidavit must be filed with the  
12 Office of Economic and Workforce Development on or before ~~January~~December 31 of each  
13 year subsequent to the Office of Economic and Workforce Development's initial approval of  
14 the application.

15 (3) Maintain records and documents in a manner acceptable to the Tax  
16 Collector. Such records and documents must objectively substantiate any exclusion claimed  
17 under this Section and be provided to the Tax Collector upon request.

18 (4) File ~~an~~a timely annual Payroll Expense Tax Return and affidavit with the  
19 Tax  
20 Collector regardless of the amount of tax liability, if any, shown on the return after claiming the  
21 exclusion provided for in this Section.

22 (5) Any person whose annual payroll expense exceeds one million dollars  
23 (\$1,000,000) shall enter into a binding Community Benefit Agreement with the City  
24 Administrator in order to be eligible for the payroll expense tax exclusion under this Section.  
25 Such Community Benefit Agreement may include commitments to engage in community

1 activities in the Central Market Street and Tenderloin Area as well as participation in  
2 workforce development opportunities.

3 (d) The Office of Economic and Workforce Development shall:

4 (1) Together with the Office of the Treasurer and Tax Collector, adopt rules,  
5 regulations and forms regarding eligibility and the application process for the Central Market  
6 Street and Tenderloin Area payroll expense tax exclusion. The rules, regulations and forms  
7 may be amended from time to time as necessary.

8 (2) Review all applications for completeness and upon approval, issue a  
9 certificate of eligibility to the applicant. The decision of the Office of Economic and Workforce  
10 Development regarding eligibility for the exclusion may not be appealed by an applicant.

11 (3) Provide the Tax Collector with a list of persons eligible to claim the tax  
12 exclusion authorized under this Section for the preceding tax year by March 1 of each year.

13 (e) The Tax Collector shall verify that any exclusion claimed pursuant to this Section  
14 is appropriate.

15 (f) The Central Market Street and Tenderloin Area exclusion authorized under this  
16 Section shall be available to and may be taken by each person for each tax year that person  
17 holds a valid certificate of eligibility for a period not to exceed six years from the effective date  
18 of this ordinance or the commencement of the person's business in the Central Market Street  
19 and Tenderloin Area, whichever is later. The date the Tax Collector first received the person's  
20 application for a business registration certificate for the person's Central Market Street and  
21 Tenderloin Area business shall be presumed to be the date of commencement of such  
22 business unless the person establishes a different commencement date to the satisfaction of  
23 the Tax Collector.

24 (g) The Central Market Street and Tenderloin Area exclusion authorized under this  
25 Section shall expire on the eighth anniversary date of the effective date of this Section. A



1 person may not use or claim any unused portion of the Central Market Street and Tenderloin  
2 Area exclusion after the expiration date of this Section. Unless exempted under Section 906  
3 of this Article, every person engaging in a business in the Central Market Street and  
4 Tenderloin Area in the City shall pay the tax imposed under this Article on the full amount of  
5 the person's payroll expense attributable to the City from and after the expiration of this  
6 Section.

7 \* \* \* \*

8  
9 Section 6. The Business and Tax Regulations Code is hereby amended by revising  
10 Article 22, Section 2219.6 to read as follows:

11  
12 **SEC. 2219.6. COLLECTION AND ENFORCEMENT.**

13 (a) The Revenue Control Equipment Compliance Fee shall be due ~~annually~~ to the  
14 Tax Collector annually on December 31 and shall be remitted by the Operator ~~as a part of the last~~  
15 ~~quarterly parking tax return.~~

16 (b) The Fee is payable, when due, at the office of the Tax Collector, and if not paid  
17 within 30 days after the same becomes due, the Tax Collector shall add 10 percent to the  
18 amount of the Fee as a penalty for nonpayment. If the Fee is not paid within 60 days after the  
19 same becomes due, the Tax Collector shall add 15 percent to the amount of the Fee as a  
20 penalty for nonpayment. If the Fee is not paid within 90 days after same becomes due, the  
21 Tax Collector shall add 25 percent to the amount of the Fee, as a penalty for nonpayment;  
22 provided, however, when an Operator has failed for a period of six months or more to pay the  
23 ~~f~~Fee, and has allowed the ~~f~~Fee to become delinquent for this or a longer period, the Tax  
24 Collector shall, in such instance, impose a penalty of 25 percent on the total amount of the  
25

1 Fee delinquent and refer the Operator to the Bureau of Delinquent Revenue for further  
2 collection and enforcement.

3  
4 Section 7. Effective and Operative Date.

5 (a) Effective Date. This ordinance shall become effective 30 days after enactment.  
6 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance  
7 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of  
8 Supervisors overrides the Mayor's veto of the ordinance.

9 (b) Operative Dates. This ordinance shall become operative on its effective date,  
10 except for those provisions of Sections 6.9-1, 6.9-3, and 905-A, that are (1) amendments  
11 contained in Proposition E (November 6, 2012) or (2) additional amendments shown in this  
12 ordinance. Both categories of amendments to those sections shall become operative on  
13 January 1, 2014.

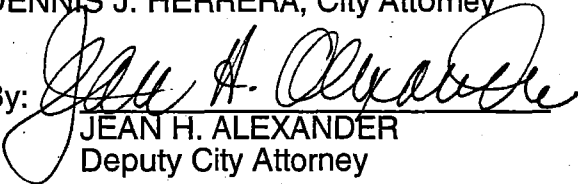
14  
15 Section 8. Severability of Ordinance Provisions; Construction of Ordinance.

16 (a) If any section, sentence, clause, phrase, or portion of this ordinance is for any  
17 reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining  
18 sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain  
19 in full force and effect. The Board of Supervisors of the City and County of San Francisco  
20 hereby declares that it would have adopted each section, sentence, clause, phrase, or portion  
21 of this ordinance, irrespective of the fact that any one or more sections, sentences, clauses,  
22 phrases, or portions of this ordinance be declared invalid or unenforceable and, to that end,  
23 the provisions of this ordinance are severable.

1 (b) No section, clause, part or provision of this ordinance shall be construed as  
2 requiring the payment of any tax that would be in violation of the Constitution or laws of the  
3 United States or of the Constitution or laws of the State of California.  
4

5 Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
9 additions, and Board amendment deletions in accordance with the "Note" that appears under  
10 the official title of the ordinance. In accordance with Section 1 of this ordinance, it is the  
11 Board's intent to amend the text of Section 6.9-1, 6.9-3, and 905-A.  
12

13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15 By:   
16 JEAN H. ALEXANDER  
17 Deputy City Attorney

18 n:\legana\as2013\1300523\00872681.doc  
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20  
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24  
25

**LEGISLATIVE DIGEST**

[Business and Tax Regulations Code - Miscellaneous Changes]

**Ordinance amending the Business and Tax Regulations Code by, among other things:**

- 1) (Common Administrative Provisions) requiring monthly installment payments rather than prepayments of hotel and parking taxes; eliminating the annual parking tax bond renewal requirement; providing a due date for business registration fees; excluding penalties from calculation of interest on tax determinations; adding an underreporting penalty for failure to file a return when tax liability exceeds \$5,000; changing the penalty for failure to register or update a registration, making misstatements in a registration, failure to allow inspection or production of records, and failure to file a return;**
- 2) (Tax on Occupancy of Parking Space in Parking Stations) eliminating the prepayment Revenue Control Equipment certification;**
- 3) (Business Registration provisions) requiring a copy of the business registration certificate rather than a business tax registration tag be displayed on company vehicles; eliminating the Tax Collector's authority to suspend a business registration certificate;**
- 4) (Payroll Expense Tax Ordinance) providing that interest applies to unpaid penalties but not unpaid fees and interest; changing the date that businesses must file an affidavit with the Office of Economic and Workforce claiming the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion; and,**
- 5) (Parking Stations, Revenue Control Equipment) specifying the date the Revenue Control Equipment Compliance Fee is due.**

Existing Law

The Treasurer/Tax Collector administers the City's taxes pursuant to the Common Administrative Provisions in Article 6 of the San Francisco Business and Tax Regulations Code. The Common Administrative Provisions impose on taxpayers and businesses specific requirements regarding collecting, reporting and remitting taxes. They also contain provisions describing the refund, audit and enforcement processes. The Common Administrative Provisions apply to Article 7: Tax on Transient Occupancy of Hotel Rooms, Article 9: Tax on Occupancy of Parking Space in Parking Stations, Article 10: Utility Users Tax, Article 10B: Access Line Tax, Article 11: Stadium Operator Admission Tax, Article 12: Business Registration, Article 12-A: Payroll Expense Tax, Article 12-A-1: Gross Receipts Tax Ordinance, Article 12-B: Business Tax Refund of the Business and Tax Regulations Code, and to Chapter 105 of the Administrative Code: Cigarette Litter Abatement Fee Ordinance.

## Amendments to Current Law

This Ordinance amends the Business and Tax Regulations Code, Common Administrative Provisions to add cross-references to the Gross Receipts Tax Ordinance, enacted in November 2012, correct clerical errors, and make miscellaneous administrative changes. The administrative changes include deleting references to "prepayments" and providing for monthly installments instead, deleting the requirement that the taxpayer renew its parking tax bond annually, providing a due date for business registration fees, excluding penalty amounts from the calculation of interest on tax determinations, adding a substantial underreporting penalty for failure to file a return when the tax liability exceeds \$5,000, and changing the penalty from the amount of the annual registration fee to the greater of \$100 or the amount of the penalty for underreporting tax for failure to register or update a registration, making misstatements in registration, failure to allow inspection of or to produce records, and failure to file a return.

This ordinance revises the requirement that certain taxpayers display a business tax registration tag on company vehicles to require that the taxpayer instead display a copy of its business registration certificate. The ordinance eliminates the Tax Collector's authority to suspend a business's registration certificate.

This ordinance amends the Payroll Expense Tax Ordinance to provide that interest applies to unpaid penalties but not unpaid fees and interest, and to change the date that businesses must file an affidavit with the Office of Economic and Workforce claiming the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion.

This ordinance also specifies the date the Revenue Control Equipment (RCE) Compliance Fee is due and deletes the pre-payment RCE certification.

## Background Information

Proposition E was enacted by the voters at the election on November 6, 2012, and shall become operative on January 1, 2014. In addition to imposing a gross receipts tax, Proposition E made changes to the payroll expense tax, the business registration fee, and the common administrative provisions of the Business and Tax Regulations Code (BTRC). This ordinance amends the BTRC to facilitate tax administration, following the passage of Proposition E. It also corrects clerical errors, and makes miscellaneous administrative changes.

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**Item 1**  
**File 13-0784**

**Department:**  
Office of the Treasurer and Tax Collector

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed ordinance would amend various sections of the City's Business and Tax Regulations Code to comply with the provisions of Proposition E and to streamline the administration and collection of the City's business taxes.

### Key Points

- Proposition E, approved by San Francisco's voters on November 6, 2012, resulted in the establishment of a Gross Receipts Tax, which will be phased in from January 1, 2014 through December 31, 2018 and ultimately replace the City's existing Payroll Expense Tax. Proposition E also made changes to the Payroll Expense Tax, the Business Registration Fee, and the Common Administrative Provisions of the Business and Tax Regulations Code.
- The proposed ordinance would amend various sections of the City's Business and Tax Regulations Code to (a) make all of the Common Administrative Provisions consistent with Proposition E, (b) require monthly installment payments rather than prepayments of Hotel and Parking Taxes, (c) eliminate prepayments of Revenue Control Equipment certification, (d) eliminate the requirement for annual Parking Tax bond renewals, (e) make monthly tax payments consistent with the filing of monthly tax returns, (f) establish a due date for Business Registration fees, (g) exclude penalties from the calculation of interest on tax determinations, (h) add a substantial underreporting penalty for failure to file a return when the tax liability exceeds \$5,000, (i) change the penalties for failure to register or update a business' registration, misstatements, disallowing inspections of records and failure to file a tax return, (j) require that copies of the Business Registration Certificate rather than a separate Business Tax Registration Tag be displayed on company vehicles, (k) eliminate the Tax Collector's authority to suspend a Business Registration Certificate, (l) provide that interest applies only to unpaid penalties but not unpaid fees and interest, (m) change the dates for filing Central Market Street and Tenderloin Area Tax exclusion affidavits from January 31 to December 31 and (n) establish December 31 as the date that the Revenue Control Equipment Compliance Fee is due.

### Fiscal Impacts

- Several of the amendments included in the proposed ordinance potentially have fiscal impact, although the Tax Collector's Office estimates that the overall fiscal impact will be negligible.

### Recommendation

- Approve the proposed ordinance.

**MANDATE STATEMENT / BACKGROUND**

**Mandate Statement**

Charter Section 2.105 requires that legislative acts in San Francisco be by ordinance, subject to approval by a majority of the Board of Supervisors.

**Background**

Proposition E, approved by San Francisco’s voters on November 6, 2012, resulted in the establishment of a Gross Receipts Tax, which will be phased in from January 1, 2014 through December 31, 2018 and ultimately replace the City’s existing Payroll Expense Tax. Proposition E also made changes to the Payroll Expense Tax, the Business Registration Fee, and the Common Administrative Provisions of the Business and Tax Regulations Code.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would amend various sections of the City’s Business and Tax Regulations Code to comply with the provisions of Proposition E and to streamline the administration and collection of the City’s business taxes.

Tables 1, 2, 3 and 4 below summarize the amendments in the proposed ordinance, the impacted sections of the existing Business and Tax Regulations Code and the background and purpose for each of the proposed amendments.

**Table 1: Amendments to Articles 6 and 9 of the Business and Tax Regulations Code**

| Amendments   | Section(s)  | Background and Purpose   |
|--|---|--|
| Inclusion of the Gross Receipts Tax in all Common Administrative Provisions. | 6.6-1, 6.8-1, 6.9-1, 6.9-5, 6.9-6, 6.17-2, 6.21-1 | San Francisco voters approved a Gross Receipts Tax in November 2012, as codified in Article 12-A-1 of the Business and Tax Regulations Code, which would now be included in all Common Administrative Provisions.  |
| Deletion of all references to prepayments                                    | 6.9-1, 6.9-3, 6.9-4, 6.9-6, 6.11-3, 607           | The proposed deletions would make Article 6 and 9 consistent with Proposition E by deleting references to <u>prepayments</u> of Hotel and Parking Taxes and Revenue Control Equipment Compliance Fees, which, under the proposed ordinance, would be reported and paid on a <u>monthly</u> basis, thus making prepayments invalid. |

| Amendments  | Section(s) | Background and Purpose  |
|---|------------|---|
| Elimination of requirement for annual Parking Tax bond renewal.   | 6.6-1      | Parking operators are currently required to file annual bonds with the City in graduated amounts corresponding to their annual gross receipts. According to Mr. Greg Kato, the Tax Collector's Policy and Legislative Manager, the surety bond industry interpreted this provision to mean a new bond must be filed annually in addition to existing bonds, thus requiring parking operators to purchase bonds each year and to post increasing amounts of collateral, which became too costly for many parking operators when the bond amounts were increased in 2010 (File No. 10-1099). Under the proposed amendment, parking operators would be required to file only one bond with the City. |
| Require monthly filing and remittance of Hotel and Parking Taxes, rather than quarterly.                                    | 6.9-1      | Currently, third-party taxpayers subject to the City's Hotel and Parking Taxes must file tax returns with the Tax Collector's Office quarterly but must pay such taxes to the Tax Collector's Office monthly. The proposed amendment would coordinate and link monthly payments to monthly returns, simplifying the administration of tax collections for the Tax Collector's Office and taxpayers.   |
| Establishment of due date for the remittance of Business Registration Fees.   | 6.9-1      | The proposed ordinance would re-establish an annual due date of May 31 for Business Registration Fees for the fiscal year commencing the following July 1. Prior to Proposition E, May 31 was the due date for Business Registration Fees; however, a due date was not specified in Proposition E to allow the due date to be subsequently changed by ordinance, without requiring voter approval.  |
| Exclusion of penalties from the calculation of interest on tax determinations when taxpayers fail to pay or underpay a tax. | 6.11-1     | The proposed amendment would exclude penalty amounts from the calculation of interest on tax determinations in order to streamline the calculation of interest owed on delinquent Payroll Expense and Gross Receipts Taxes.   |
| Amendment of the penalty for "substantial underreporting of tax" to include taxpayers who do not file a tax return.         | 6.17-2     | In 2010 the City added a penalty for "substantial underreporting of tax," when the amount of taxes owed exceeds the amount of taxes reported by 25% or more for a taxable period. By basing the penalty on the amount of tax reported in the taxpayer's return, the penalty does not apply to taxpayers who do not file a return. The proposed amendment would redefine "substantial underreporting of tax" to also include taxpayers who do not file a return, when the tax liability exceeds \$5,000.   |



| Amendments  | Section(s) | Background and Purpose   |
|---|------------|--|
| Replacement of the existing method of calculating the penalty for failure to comply with Business Registration requirements with a new method of calculating the penalty. | 6.17-3     | Currently, the penalty for failing to comply with Business Registration requirements, including failure to register, failure to amend registration within 7 days of a material change, material misrepresentation in a registration, or failure to comply with rules and regulations promulgated by the Tax Collector in a timely manner, is equal to the amount of the Business Registration Fee. Proposition E increased annual Business Registration Fees from a range of \$25 to \$500, depending on the amount of Payroll Expense Tax owed, to a range of \$75 to \$35,000, depending on the amount of Payroll Expense/Gross Receipts Tax owed. According to Mr. Kato, the Tax Collector deemed the existing Business Registration Fee penalties to be overly severe as a result of the new Business Registration Fees. The proposed amendment would set the penalty for the above listed infractions the greater of \$100 or the penalty assessed pursuant to Section 6.17-1, the standard penalty for failure to pay any tax to the City, based on the amount of the Business Registration Fee. |

**Table 2: Amendments to Article 12 of the Business and Tax Regulations Code: Business Registration**

| Amendment   | Section(s) | Background and Purpose   |
|---|------------|--|
| Replace requirement that certain businesses display a separate Business Tax Registration Tag on company vehicles with requirement that such businesses instead display their Business Registration Certificate on company vehicles. | 859        | Currently only roofing contractors are required to display a separate Business Tax Registration Tag on company vehicles, for which the Tax Collector charges an annual fee of \$30, which covers the cost of issuing the tag. The proposed amendment would eliminate the use of such Business Tax Registration Tags, and allow roofing contractors to display their Business Registration Certificate on company vehicles.   |
| Elimination of the Tax Collector's authority to suspend a Business Registration Certificate.  | 860        | Currently the Tax Collector can revoke or suspend Business Registration Certificates for businesses that fail to comply with any provision of Article 12. According to Mr. Kato, the Tax Collector currently only uses its authority to revoke Business Registration Certificates but does not use its authority to suspend Business Tax Registration Certificates. The proposed amendment would eliminate the Tax Collector's authority to <u>suspend</u> Business Registration Certificates, leaving the Tax Collector only the authority to <u>revoke</u> Business Registration Certificates, consistent with current practice. |

**Table 3: Amendments to Article 12-A of the Business and Tax Regulations Code: Payroll Expense Tax Ordinance**

| Amendment   | Section(s) | Background and Purpose  |
|---|------------|---|
| Amendment of the Small Business Tax Exemption for the Payroll Expense Tax to exclude unpaid fees and interest from the calculation of interest on penalties for failure to file a tax return.   | 905.A      | Currently, businesses whose annual taxable payroll does not exceed \$250,000 are exempt from payment of the annual Payroll Expense Tax. However, such qualifying small businesses are still required to file annual tax returns. Currently, unpaid penalties, interest and fees accrue interest at 1% per month. The proposed amendment would exclude unpaid fees and interest from the calculation of penalties in order to make the penalty structure for the Small Business Tax Exemption consistent with the penalty structure for businesses that are not subject to the Small Business Tax Exemption. |
| Amendment to change the date from January 31 to December 31 for an affidavit to be filed with the Office of Economic and Workforce Development by a business claiming the Central Market Street or Tenderloin Area Payroll Expense Tax Exclusions affirming compliance with the eligibility criteria for receiving such Payroll Expense Tax Exclusions. | 906.3      | The original affidavit due date of January 31 was established to be one month prior to the City's business tax filing due dates. However, Mr. Kato advises that experience has shown that one month is not sufficient time. Businesses currently have to declare their intention to file for these exemptions by November 1 each year to meet an internal administrative deadline of the Office of Economic and Workforce Development, such that moving the filing of the affidavit date up one month should not impact businesses.   |

**Table 4: Amendment to Article 22 of the Business and Tax Regulations Code: Parking Stations; Revenue Control Equipment**

| Amendment  | Section(s) | Background and Purpose   |
|--|------------|--|
| Amendment establishing the date that the Revenue Control Equipment (RCE) Compliance Fee is due to the Tax Collector annually as December 31. | 2219.6     | Parking Operators are required to pay a RCE Compliance Fee to cover the City's cost of enforcing compliance with the RCE requirements. Currently, Parking Operators pay the \$500 RCE Compliance Fee as part of their last quarterly parking return each year. Given the elimination of quarterly filing of returns by Parking Operators, the proposed ordinance establishes December 31 as the specific date on which the RCE Compliance Fee is due. Effectively, Parking Operators would pay the RCE Compliance Fee at the same time of year under the proposed amendment. |

**FISCAL IMPACTS**

The following amendments included in the proposed ordinance potentially have fiscal impact, although the Tax Collector's Office estimates that the overall fiscal impact will be negligible.

1. Article 6 Section 6.6-1: Elimination of the requirement for annual Parking Tax bond renewal. Mr. Kato advises that elimination of the annual Parking Tax bond would not impact the City's level of risk nor have any fiscal impact on the City because the proposed new provisions specifying that at least one full year of taxes be bonded, are consistent with the level of coverage needed by the City.
2. Article 6 Section 6.11-1: Exclusion of penalties from the calculation of interest on tax determinations when taxpayers fail to pay or underpay a tax. According to Mr. Kato, the number of taxpayers penalized and the amounts of such penalties are so low that excluding penalty amounts from the calculation of interest on tax determinations are estimated to be negligible.
3. Article 6, Section 6.17-2: Amendment of the penalty for "substantial underreporting of tax" to include both (a) the existing provision, when the amount of taxes owed exceeds the amount of taxes reported by 25% or more, and (b) the new provision, for taxpayers who do not file a tax return when their tax liability is \$5,000 or more. According to Mr. Kato, the proposed threshold of \$5,000 or more is based on the Tax Collector's Bureau of Delinquent Revenue practices. Mr. Kato advises that this amendment would result in an unknown increase in revenue to the City, based on the number of taxpayers who do not file a tax return and are determined to have tax liabilities exceeding \$5,000.
4. Article 6, Section 6.17-3: Replacement of the existing method of calculating the penalty for failure to comply with Business Registration requirements with a new method of calculating the penalty. Mr. Kato advises that the proposed amendment is intended to make the penalty for failure to comply with Business Registration requirements consistent with the penalties for other taxes. Mr. Kato further advises that because these post-Proposition E penalty provisions were not yet implemented, the fiscal impact of the proposed change is unknown.
5. Article 12, Section 859: Replace the requirement that roofing contractors display a separate Business Tax Registration Tag on company vehicles with requirement that such businesses instead display their business's Business Registration Certificate on company vehicles. The Tax Collector currently charges an annual fee of \$30 for each Business Tax Registration Tag issued to cover the cost of issuing each Tag. According to Mr. Kato, the number of tags issued annually does not exceed 10. Therefore, eliminating Business Tax Registration Tags would result in a loss of up to \$300 annually to the City, while also reducing the Tax Collector's cost to issue such separate Business Tax Registration Tags.
6. Article 12-A, Section 905.A: Amendment of the Small Business Tax Exemption to exclude unpaid fees and interest from the calculation of penalties for failure to file a tax return. According to Mr. Kato, the proposed amendment is projected to result in a negligible loss of revenue to the City.

**RECOMMENDATION**

Approve the proposed ordinance.



SMALL BUSINESS COMMISSION  
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO  
EDWIN M. LEE, MAYOR

September 9, 2013

Ms. Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File No. 130784 [Business and Tax Regulations Code - Administrative Changes ]**

Small Business Commission Recommendation: **Approval**

Dear Ms. Calvillo:

On September 9, 2013, the Small Business Commission (SBC) voted 5-0 to recommend approval of BOS File No. 130784.

The Commission supports this effort to simplify City and County regulations in order to ease the compliance burden for small businesses. Notably, the Commission supports elimination of a seemingly archaic requirement for roofing contractors to obtain a business tax registration vehicle tag, minimizing unintended impacts of parking tax bond requirements on small business operators, and the cleanup of outdated references.

Sincerely,

Regina Dick-Endrizzi  
Director, Office of Small Business

Cc: Supervisor David Chiu  
Jason Elliot, Mayor's Office  
Greg Kato, Office of Treasurer & Tax Collector



DENNIS J. HERRERA  
City Attorney

JEAN H. ALEXANDER  
Deputy City Attorney

DIRECT DIAL: (415) 554-4631  
E-MAIL: jean.alexander@sfgov.org

**MEMORANDUM**

TO: The Honorable David Chiu  
President, Board of Supervisors  
FROM: Jean H. Alexander (JA)  
Deputy City Attorney  
DATE: August 30, 2013  
OUR FILE NUMBER: 1300523  
TYPE OF LEGISLATION: Ordinance

---

Attached please find an original and two copies of substitute legislation you have requested for the following legislation:

Ordinance amending the Business and Tax Regulations Code by, among other things: 1) (Common Administrative Provisions) requiring monthly installment payments rather than prepayments of hotel and parking taxes; eliminating the annual parking tax bond renewal requirement; providing a due date for business registration fees; excluding penalties from calculation of interest on tax determinations; adding an underreporting penalty for failure to file a return when tax liability exceeds \$5,000; changing the penalty for failure to register or update a registration, making misstatements in a registration, failure to allow inspection or production of records, and failure to file a return; 2) (Tax on Occupancy of Parking Space in Parking Stations) eliminating the prepayment Revenue Control Equipment certification; 3) (Business Registration provisions) requiring a copy of the business registration certificate rather than a business tax registration tag be displayed on company vehicles; eliminating the Tax Collector's authority to suspend a business registration certificate; 4) (Payroll Expense Tax Ordinance) providing that interest applies to unpaid penalties but not unpaid fees and interest; changing the date that the Office of Economic and Workforce Development must provide the Tax Collector a list of persons eligible to claim the Central Market Street and Tenderloin Area Payroll Expense Tax Exclusion; and, 5) (Parking Stations, Revenue Control Equipment) specifying the date the Revenue Control Equipment Compliance Fee is due.

We have also forwarded an electronic version of the legislation and digest for submission to the Clerk of the Board upon introduction of this legislation. Please let me know if you have any questions or would like any additional information.

Encls.

**Memorandum**

TO: The Honorable David Chiu  
DATE: August 30, 2013  
PAGE: 2

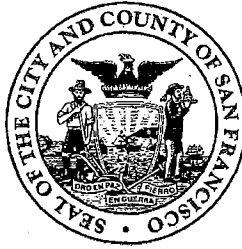
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cc: José Cisneros, Treasurer  
Greg Kato  
Judson True  
Jon Givner  
Paul Zarefsky  
Melissa Millsaps  
Allie Fisher

Orig: File 130861  
P-7 Clerk,

BOS-11, COB, LEM DEP

President, District 3  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 544-5227

**DAVID CHIU**  
邱信福  
市參事會主席

**PRESIDENTIAL ACTION**

Date: 9/13/2013

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 130861 Mayor  
(Primary Sponsor)

Transferring (Board Rule No. 3.3)

File No. \_\_\_\_\_  
(Primary Sponsor)

From: \_\_\_\_\_ Committee

To: \_\_\_\_\_ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
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David Chiu  
David Chiu, President  
Board of Supervisors